

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CHARLES S. TILLMAN,

Plaintiff,

v.

CRYSTAL DIXON, SYLVIA  
WASHINGTON, FRANK SAN  
NICHOLAS, KENNETH  
RICONISCUITO, and TRUDY  
MILLER,

Defendants.

No. C10-5032 BHS/KLS

ORDER REGARDING LETTER  
REQUEST FOR ASSISTANCE

Before the Court is Plaintiff's letter dated May 10, 2011. ECF No. 46. Plaintiff asks the Court to advise him on how to proceed against Defendants' motion for summary judgment, filed on April 25, 2011 (ECF No. 44). *Id.* Plaintiff claims that he does not know how to proceed, does not even know what a motion for summary judgment is, and no longer has the assistance of the individual who helped him start his lawsuit. *Id.* Plaintiff claims that he previously advised the court that he did not know how to proceed in a letter dated November 13, 2010. *Id.* (citing ECF No. 40. In that letter, Plaintiff stated that he knew he was in the discovery phase, but was unsure of what to do next. He also advised the Court of the whereabouts of one of the Defendants. ECF No. 40. In response to that letter, the Court directed service on the Defendant.

1 It is unclear what relief the Plaintiff seeks. Neither the Court nor the Clerk of Court can  
2 provide legal advice or prosecute Plaintiff's case for him. Despite his *pro se* status, Plaintiff is  
3 responsible for prosecuting his case, obeying the Court's orders, and following the federal and  
4 local rules.

5 Almost nine months ago, the Court issued the Pretrial Scheduling Order. ECF No. 34.  
6 Within that Order, the parties were advised, among other things, that all discovery was to be  
7 completed by February 25, 2011. In addition, the Order stated:  
8

9 Service of responses to interrogatories and to requests to produce, and the taking  
10 of depositions shall be completed by this date. Federal Rule of Civil Procedure  
11 33(b) (3) requires answers or objections to be served within **thirty (30) days** after  
12 service of the interrogatories. The serving party, therefore, must serve his/her  
interrogatories at least **thirty (30) days** before the deadline in order to allow the  
other party time to answer.

13 *Id.*, p. 1.

14 Regardless of any lack of knowledge Plaintiff may have had in regard to conducting  
15 discovery, he was clearly made aware by the plain language of the Court's pretrial scheduling the  
16 time frame within which discovery is to be conducted and was referred to the federal rule  
17 governing the service of discovery. *Id.* The Pretrial Scheduling Order further advised the parties  
18 as to the filing of dispositive motions, including motions for summary judgment. *Id.* In  
19 particular, the Order stated:  
20

21 If a motion for summary judgment is filed, it is important for the opposing party  
22 to note the following:

23 A motion for summary judgment under Rule 56 of the Federal Rules of  
Civil Procedure will, if granted, end your case.

24 Rule 56 tells you what you must do in order to oppose a motion for  
25 summary judgment. Generally, summary judgment must be granted  
26 when there is no genuine issue of material fact -- that is, if there is no  
real dispute about any fact that would affect the result of your case, the  
party who asked for summary judgment is entitled to judgment as a

1 matter of law, which will end your case. When a party you are suing  
 2 makes a motion for summary judgment that is properly supported by  
 3 declarations (or other sworn testimony), you cannot simply rely on what  
 4 your complaint says. Instead, **you must set out specific facts in**  
 5 **declarations, deposition, answers to interrogatories, or authenticated**  
 6 **documents, as provided in Rule 56(e), that contradict the facts**  
 7 **shown in the defendant's declarations and documents and show that**  
 8 **there is a genuine issue of material fact for trial. If you do not**  
 9 **submit your own evidence in opposition, summary judgment, if**  
 10 **appropriate, may be entered against you. If summary judgment is**  
 11 **granted, your case will be dismissed and there will be no trial.**

12 *Rand v. Rowland*, 154 F.3d 952, 962-963 (9th Cir. 1998) (emphasis added).  
 13 Furthermore, Local Rule CR 7(b) (4) states that a party's failure to file necessary  
 14 documents in opposition to a motion for summary judgment may be deemed by  
 15 the court to be an admission that the opposition is without merit.

16 ECF No. 34, pp. 2-3.

17 Plaintiff has not alleged that he did not receive the Court's Order or that he was unable to  
 18 read the Order. The language quoted above is not so complex and hard to understand that a pro  
 19 se litigant, even one not familiar with the law, cannot comprehend it. That language is, in fact,  
 20 the same language used to inform all pro se prisoner litigants of applicable pretrial deadlines, the  
 21 nature of summary judgment motions, and their responsibilities with respect thereto.

22 Finally, if Plaintiff seeks relief from this Court, he must do so in the form of a motion,  
 23 noted for hearing according to the Federal Rules of Civil Procedure and as outlined in the Pretrial  
 24 Scheduling Order. Thus, Plaintiff's letter (ECF No. 46) shall remain in the Court's file without  
 25 further action by the Court.

26 **DATED** this 23rd day of May, 2011.



Karen L. Strombom  
 United States Magistrate Judge